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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,756	10/06/2000	G. Grady McBride	5259-04900/EBM	8670

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EXAMINER

DAVIS, DANIEL J

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 01/30/2004

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/680,756

Applicant(s)

MCBRIDE ET AL.

Examiner

D. Jacob Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 187-262 and 264-276 is/are pending in the application.
- 4a) Of the above claim(s) 209,234 and 257 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 262 and 264-269 is/are allowed.
- 6) ☒ Claim(s) 187-208,210-233,235-256,258-261 and 270-276 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 187-197, 199-208, 212-222, 224-233, 237-245, 247-256, 260, 261 and 270-276 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,283,967 to Troxell et al.

Troxell discloses a connector (Figs. 2-3) comprising a first section 22 having an opening and a cam system comprising engager 94 and the interior of hooks 90. The engager extends into the opening to secure elongated member 12. Once the elongated member and the cam system are set within the body and both are in their final holding position, "the cam system is not configured to axially advance into the connector during use of the cam system." The cam system is being "used" to maintain the position of the elongated member within the body.

With respect to claim 239, "one of the sections comprises an aperture [32] configured to receive a portion of the other section." "A width of the aperture allows" the sections to be angulated only within "about 30 degrees relative to one another." As

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viewed in Fig. 7, one of the sections allows for a range of rotation, which may be considered a range of angulation, within about 30 degrees.

The connector further comprises a second section 18 coupled to the first section 16, and a fastener/set screw 44, which inhibits movement of the first section 16 relative to the second section 26 by locking the two sections together. The sections may rotate with respect to one another either along the longitudinal axis of the connector, or with respect to the longitudinal axis of the connector. The range of rotation may be limited to whatever extent the user chooses to limit the rotation of the connectors. Therefore, the range of rotation may be less than 90 degrees or even less than 20 degrees.

The lower limit of rotation is zero degrees.

With respect to claims 197, 222 and 245 *only*, the fastener is element 70 and the lining is element 44.

While in the locked state, the first section and the second section are inhibited from being removed from one another.

Since the cam system is screwed into the first section, it is *inhibited* from being removed, though not prevented from being removed. The rotational range of the cam system is limited to whatever extent the user desires.

The second section 18 further comprises a cam system 98 that extends into an opening to secure a second elongated member 14. The fastener 44 inhibits or controls the distance between the first and second openings.

Regarding claims 270, 272 and 273, the device comprises a first section 18, a second section 16, a connecting member 24, a fastener 44, and a holder, which as

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illustrated in Fig. 2, comprises the female portion of the second section and receives the connecting member 24. The cam system comprises the interior of hooks 90 and an engager 94. The first and second portions may rotate relative to each other and along the longitudinal axis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(c) which forms the basis for all obviousness rejections set forth in this Office action:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 198, 223 and 246 are rejected under 35 U.S.C. 103(c) as being unpatentable over U.S. Pat. No. 6,283,967 to Troxell et al. in view of U.S. Pat. No. 6,562,038 to Morrison. Troxell discloses cam systems having hooks 90, but is silent about roughening the cam systems or the hooks 90 to more effectively secure rods 12 and 14. Morrison teaches a rod that is clasped between a clevis (Col. 3, lines 29-33). The clevis is roughened to more effectively secure the rod. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a roughening surface to the cam systems, or the hooks 90, to more effectively secure rods 12 and 14.

Claims 210, 211, 235, 236, 258 and 259 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,283,967 to Troxell et al. in view of U.S. Pat. No.

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6,331,179 to Freid et al. Troxell discloses a cam system, but is silent regarding a driver to apply the cam system. Nevertheless, Freid discloses in Fig. 22 a driver used to apply screws. A driver of similar shape (though perhaps having a different size) may be used to apply the cam system. As the driver is turned, there is a visual indicator 454.

Allowable Subject Matter

Claims 262 and 264-276 are rejected.

Response to Arguments

The amended limitation, "wherein the cam system is configured to not axially advance into the connector during use of the cam system," does not read over the Troxell et al. patent. "During use" may be interpreted broadly to include the use of the system when in the fully extended position while securing an elongated member in the body. During such use, the system is "configured to not axially advance."

Troxell discloses a range of rotation, which may be considered a range of angulation within about 30 degrees.

Conclusion


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Jacob Davis whose telephone number is (703) 305-1232. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



MICHAEL J. MILANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

DJD
January 26, 2004